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ACTION IO-16

INFO	LOG-00	ACDA-17	AF-01	AID-01	CIAE-00	SMEC-00	OASY-00
	DODE-00	DOEE-00	EB-01	EUR-01	H-01	TEDE-00	INR-00
	JUSE-00	L-01	ADS-00	NSAE-00	NSCE-00	OIC-02	OMB-01
	PA-01	PM-00	PRS-01	P-01	SNP-00	SP-00	SR-00
	SS-00	STR-01	TRSE-00	T-00	USIE-00	DTC-01	PMB-00
	PRME-01	DRL-09	G-00	/057W			
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FM USMISSION USUN NEW YORK  
TO SECSTATE WASHDC 7691  
INFO AMEMBASSY PARIS

C O N F I D E N T I A L USUN NEW YORK 002880

E.O.12356: DECL:OADR  
TAGS: MOPS, MASS, PHUM, RW, BY, OAU  
SUBJECT: RWANDA - FRENCH RESPONSE TO REPLACEMENT OF  
RWANDA ON UNSC

REF: (A) STATE 183008, (B) PARIS 18878

1. CONFIDENTIAL - ENTIRE TEXT.

2. REFTEL (B) REPORTS THAT QUAI LEGAL EXPERTS HAVE  
TAKEN THE POSITION THAT A CHALLENGE TO THE CREDENTIALS  
OF A GOVERNMENT'S REPRESENTATIVE CAN ONLY BE MADE WHEN  
THERE IS A CHOICE BETWEEN COMPETING CLAIMS. ALTHOUGH  
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PRECEDENTS FOR CHALLENGES TO CREDENTIALS IN THE SECURITY  
COUNCIL HAVE ARISEN IN SITUATIONS WHERE THERE HAS BEEN A  
COMPETING CLAIM, THE SC RULES DO NOT PRECLUDE REJECTION  
OF CREDENTIALS IN THE ABSENCE OF SUCH A CLAIM. RULE 17  
PROVIDES THAT, "ANY REPRESENTATIVE ON THE SECURITY  
COUNCIL, TO WHOSE CREDENTIALS OBJECTION HAS BEEN MADE  
WITHIN THE SECURITY COUNCIL, SHALL CONTINUE TO SIT WITH  
THE SAME RIGHTS AS OTHER REPRESENTATIVES UNTIL THE  
SECURITY COUNCIL HAS DECIDED THE MATTER." USUN LEGAL  
OFFICER MET WITH UKUN LEGAL ADVISER AND UNSC SECRETARIAT  
STAFF MEMBER (PROTECT) TO DISCUSS PROCEDURES. (FRENCH

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MISSION LEGAL ADVISER IS ON LEAVE IN FRANCE.) ALL SHARED THE VIEW THAT ONE OR MORE MEMBERS OF THE COUNCIL COULD RAISE AN OBJECTION TO RWANDA'S SC CREDENTIALS, EVEN IN THE ABSENCE OF A CONFLICTING CLAIM.

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3. CREDENTIALS CHALLENGES IN THE GENERAL ASSEMBLY HAVE ALSO USUALLY ARISEN IN CASES WHERE THERE WAS A RIVAL CLAIMANT. QUESTIONS HAVE BEEN RAISED IN THE CREDENTIALS COMMITTEE, HOWEVER, IN AT LEAST TWO INSTANCES (HUNGARY AND SOUTH AFRICA) WHERE THERE WAS NO RIVAL CLAIMANT. THE ASSEMBLY SUBSEQUENTLY REJECTED SOUTH AFRICA'S CREDENTIALS. THE SOUTH AFRICAN CASE WAS UNIQUE BECAUSE GA ACTION FOLLOWED AN UNSUCCESSFUL ATTEMPT TO EXPEL SOUTH AFRICA UNDER ARTICLE VI OF THE CHARTER. THE GA REJECTION OF CREDENTIALS WAS WIDELY REGARDED AS TANTAMOUNT TO EXPULSION AND THEREFORE OUTSIDE THE ASSEMBLY'S AUTHORITY. THIS WAS ONE OF THE REASONS WHY RECENT ACTION TO DENY YUGOSLAVIA PARTICIPATION IN THE GA AND ECOSOC WAS NOT TAKEN VIA A CREDENTIALS CHALLENGE BUT RATHER FOLLOWED A PROCEDURE BASED ON ARTICLES V AND VI

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OF THE CHARTER, I.E. ACTION BY THE GA BASED ON SC  
RECOMMENDATION.

4. COMMENT. EVEN IF CREDENTIALS CHALLENGES CAN BE MADE IN BOTH THE GA AND SC IN THE ABSENCE OF CONFLICTING CLAIMS, POLITICALLY A NUMBER OF FACTORS MILITATE AGAINST THIS APPROACH. THE UN MEMBERSHIP USUALLY FAVORS CONTINUED PARTICIPATION IN POLITICAL DIALOGUE BY EVEN ITS ROGUE MEMBERS. IN ADDITION, BECAUSE IT WOULD SET AN UNDESIRABLE PRECEDENT, THE U.S. HAS BEEN AGAINST ANY EXCLUSION FROM PARTICIPATION EFFECTED WITHOUT SECURITY COUNCIL ACTION AS REQUIRED BY ARTICLES V AND VI OF THE CHARTER. END COMMENT. ALBRIGHT

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